IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL REVISION APPLICATION NO. 1 OF 2004.
AND
CRIMINAL MISCELLANEOUS APPLICATION NO. 121 OF 2004.

CRIMINAL REVISION APPLICATION NO. 1 OF 2004.

Shri Ashwinkumar V. Sawant,
r/at Sawantwado, Bicholim. ... Applicant.

Versus

1. M/s. Siddhi Combines
   through its Proprietor
   Shri Vinayak Vithal
   Kanekar, r/at Abbas
   Building, Gaonkar Wada,
   Bicholim.
2. State through Public
   Prosecutor. ... Respondents.

Mr. Arun Bras De Sa, Advocate for the Applicant.

Mr. S.G. Bhobe, Advocate for the Respondent No. 1.

Mr. S.N. Sardessai, Public Prosecutor for the Respondent No. 2/State.

CRIMINAL MISCELLANEOUS APPLICATION NO. 121 OF 2004.

M/s. Siddhi Combines
through its Proprietor
Shri Vinayak V. Kanekar,
Abbas Building, Gaonkar Wada,
Bicholim. ... Applicant.

Versus

1. Shri Ashwinkumar V. Sawant,
   Sawant Wado, Amona,
   Bicholim.
2. State through Public
   Prosecutor. ... Respondents.

Mr. S.G. Bhobe, Advocate for the Applicant.

Mr. Arun Bras De Sa, Advocate for the Respondent No. 1.

Mr. S.N. Sardessai, Public Prosecutor for the Respondent No. 2/State.

Coram : P.V. HARDAS, J.

Date : 5th May 2004.

ORAL JUDGMENT.

This Criminal Revision Application has been filed by the accused, assailing his conviction for an offence punishable under Section 138 of the Negotiable Instruments Act and sentence of simple imprisonment for 6 months and payment of compensation of Rs. 60,000/-, passed by the Judicial Magistrate, First Class, Bicholim, by Judgment, dated 3rd July 2001, in Criminal Case No. 13/OA/1999/A and confirmed in appeal by the Ist Additional Sessions Judge, Panaji, in Criminal Appeal No. 3 of 2002, by Judgment, dated 31st December 2003.

2. An application has been filed, which is registered as Criminal Miscellaneous Application No. 121 of 2004 by the respondent no. 1/original complainant. The said application is signed by the accused also. In the said application a prayer is made for grant of permission to compound the offence as, according to the complainant, the applicant/accused has deposited an amount of Rs. 36,000/- in this Court and has paid to the respondent no. 1/complainant the balance amount from out of the compensation ordered to be paid by the trial Court. In these circumstances, a request is made for permission to compound the offence.

3. For the reasons stated in the application, Criminal Miscellaneous Application No. 121 of 2004 is allowed. The applicant and the accused are permitted to compound the offence. In view of the composition of the offence, the accused is entitled to be acquitted.

4. Accordingly, Criminal Revision Application No. 1 of 2004 is allowed. The conviction and sentence passed by the Courts below is, hereby, quashed and set aside and the applicant/accused is acquitted for the offence for which he was convicted. The respondent no. 1 in Criminal Revision Application No. 1 of 2004 shall be entitled to withdraw the amount of Rs. 36,000/- deposited by the accused in this Court. Registry is, therefore, directed to pay the amount deposited in this Court to the respondent no. 1 in Criminal Revision Application No. 1 of 2004.

(P.V. HARDAS)
JUDGE.

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